

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Maura Roche	Team: Squad #10	CCRB Case #: 201908532	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 04/27/2019 4:28 AM	Location of Incident: § 87(2)(b)	Precinct: 43	18 Mo. SOL 10/27/2020	EO SOL 6/13/2021	
Date/Time CV Reported Thu, 09/26/2019 1:53 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Thu, 09/26/2019 1:53 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Kevin Goldrick	11302	963547	043 PCT
2. CPT Julio Delgado	00000	918927	SRG 2

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DT3 Anthony Leitao	6752	944132	043 DET
2. POM James Piccione	22183	959071	043 PCT
3. POM Thomas Santiago	11638	951208	ESS 03
4. SGT Costantino Barberis	00522	933632	ESS 03
5. SGT Matthew Kalil	03615	941984	FORCEID
6. POM Nicholas Dalia	21242	958466	043 PCT

Officer(s)	Allegation	Investigator Recommendation
A.CPT Julio Delgado	Abuse: Captain Julio Delgado entered § 87(2)(b) in the Bronx.	§ 87(2)(b)
B.POM Kevin Goldrick	Force: Police Officer Kevin Goldrick used physical force against § 87(2)(b)	§ 87(2)(b)

Case Summary

On September 26, 2019, § 87(2)(b) filed this complaint with the CCRB online.

On April 27, 2019, at approximately 4:28 a.m., Captain Julio Delgado, of SRG 2, authorized officers to enter § 87(2)(b)'s apartment (**Allegation A: Abuse of Authority – Entry of Premises**, § 87(2)(g)), located at § 87(2)(b) in the Bronx, because § 87(2)(b) the father of § 87(2)(b)'s § 87(2)(b) old daughter, § 87(2)(b) and § 87(2)(b)-old son, § 87(2)(b) had called 911 to report that § 87(2)(b) had left them unattended while she went to a bar. Having confirmed that § 87(2)(b) had left her children unattended, Captain Delgado placed § 87(2)(b) under arrest (**BR 01**) for § 87(2)(b). PO Kevin Goldrick, who had responded to the location with PO James Piccione, Sgt. Matthew Kalil, and PO Nicholas Dalia, all of the 43rd Precinct, allegedly grabbed § 87(2)(b) by the arm, pulled her into a standing position, then pulled her out of the apartment by the arm (**Allegation B: Force – Physical Force**, § 87(2)(g)).

§ 87(2)(b) refused to sign unsealing orders regarding this incident, and the investigation was unable to establish contact with § 87(2)(b). As such, the NYPD would not release body-worn camera footage of this incident to the CCRB because of the presence of minors. Security footage of the incident had expired by the time § 87(2)(b) filed this complaint. There was no other video of this incident.

Findings and Recommendations

Allegation (A) Abuse of Authority: Captain Julio Delgado entered § 87(2)(b) in the Bronx.

It was undisputed that on April 27, 2019, at approximately 4:28 a.m., Captain Delgado entered § 87(2)(b)'s apartment.

§ 87(2)(b) (**BR 02** and **BR 03**) consistently stated that on April 26, 2019, at approximately 9:30 p.m., she stepped outside of her apartment to get some fresh air on the stoop, leaving § 87(2)(b)-old § 87(2)(b) and § 87(2)(b)-old § 87(2)(b) inside. § 87(2)(b) who was not drinking, lived on the first floor, and was next to the window to her apartment. § 87(2)(b) stayed outside for approximately 30 minutes, during which time she was texting with § 87(2)(b). Unbeknownst to § 87(2)(b), § 87(2)(b) called § 87(2)(b) who lived in § 87(2)(b) and told him that § 87(2)(b) had left her and her brother home alone.

When § 87(2)(b) came back inside, she got into the bed she shared with § 87(2)(b) and § 87(2)(b). At approximately 11 p.m., § 87(2)(b) heard police announce themselves and knock on her door. § 87(2)(b) thought that they were there because a neighbor with whom she had an ongoing dispute made a false report on her. § 87(2)(b) knew that she had not done anything wrong, so she decided to ignore the police in the hope that, after enough time had elapsed, they would leave. § 87(2)(b) stayed in bed with § 87(2)(b) and § 87(2)(b) until officers opened her door. § 87(2)(b) could not estimate how long it was from when she first heard the officers until they opened the door.)

§ 87(2)(b) later learned that § 87(2)(b) had called the police and reported that § 87(2)(b) had left § 87(2)(b) and § 87(2)(b) unattended while she went out drinking.

§ 87(2)(b) did not have custody of § 87(2)(b) and § 87(2)(b) at the time of her interview, and was unable to provide any contact information for their legal guardian. The investigation was unable to establish contact with § 87(2)(b). As such, the investigation was unable to obtain any witness statements from § 87(2)(b) or § 87(2)(b).

In his call to 911 (**BR 04** and **BR 05**), which was placed on April 27, 2019, at approximately 12:27 a.m., § 87(2)(b) states that his § 87(2)(b)-old daughter, § 87(2)(b) called him crying because § 87(2)(b) had left her and her younger brother home alone while she went to a bar. § 87(2)(b) wanted to go to her father's home in § 87(2)(b) and was afraid of what § 87(2)(b) would do to her when she got home and learned that § 87(2)(b) had called § 87(2)(b). § 87(2)(b) asks the operator to send police to § 87(2)(b)'s home to check on his children

before § 87(2)(b) returns.

§ 87(2)(b) explains to the operator that § 87(2)(b) was supposed to be with him in § 87(2)(b) but that § 87(2)(b) had not returned her to his custody and had kept her out of school all week. He adds that he has an open ACS case, and that § 87(2)(b) has a history of telling § 87(2)(b) and her brother, § 87(2)(b) to not answer the door whenever ACS or police come to the apartment and to stay quiet until they leave. § 87(2)(b) reiterates that he wants a police unit to respond to § 87(2)(b)'s home as soon as possible and asks that no one try to contact § 87(2)(b) prior to the police arriving because he does not want § 87(2)(b) to punish § 87(2)(b).

PO Goldrick (**BR 06**) stated that early on the morning of April 27, 2019, he and PO Piccione received a radio run to perform a wellness check at § 87(2)(b). When they arrived at the location, PO Goldrick and PO Piccione spoke with the 911 caller, § 87(2)(b) on the phone, and he explained that § 87(2)(b) had called him earlier that morning and told him that § 87(2)(b) had left her home alone and that she was scared and did not know what to do.

PO Goldrick and PO Piccione knocked on the apartment door and announced themselves as police. When no one answered, they went outside and knocked on the apartment windows, which were on the ground level. One of the windows was cracked, and PO Goldrick yelled through the window, but no one answered. After knocking on the door and windows for a few minutes, PO Goldrick contacted his supervisor, Sgt. Kalil, who arrived at the apartment within a few minutes. PO Goldrick told Sgt. Kalil that they had spoken with § 87(2)(b) and that they had been unable to establish contact with the occupants of the apartment despite repeated attempts. Sgt. Kalil knocked on the door and windows as well, but no one answered, and the officers did not hear any sounds or see any movements within the apartment. Sgt. Kalil then requested that Duty Captain Delgado respond to the location.

Captain Delgado arrived at the location, and, when he also could not establish any contact with the occupants of the apartment, he contacted ESU so that they could enter the apartment and perform a wellness check for the occupants. While waiting for ESU to arrive, PO Goldrick learned that Parkchester public safety officers assigned to the apartment complex had viewed video confirming that § 87(2)(b) was inside of the apartment. When ESU arrived, officers opened the door, and Captain Delgado, Sgt. Kalil, following the ESU officers, entered the apartment.

Captain Delgado's statement (**BR 07**) § 87(2)(g) § 87(2)(b) Captain Delgado responded to the location for an allegation of child neglect. When he arrived, Sgt. Kalil told him that § 87(2)(b) had told § 87(2)(b) that she was scared because § 87(2)(b) left her and her younger brother home alone while she went to a bar. The initial responding officers and Sgt. Kalil had not been able to establish contact with § 87(2)(b) or anyone else inside the apartment. Sgt. Kalil spoke with § 87(2)(b) while Captain Delgado was present and confirmed the contents of § 87(2)(b)'s initial 911 call. § 87(2)(b) told Sgt. Kalil that he had an open case with ACS and that § 87(2)(b) had a history of telling her children to be quiet and to pretend that they were not home whenever authorities knocked on the door.

Captain Delgado ran § 87(2)(b)'s history and learned that she had an open complaint (**BR 08**) for an incident that occurred earlier that month, during which § 87(2)(b) who was alleged to have been intoxicated, went to her neighbor's apartment, engaged in a verbal dispute, and then slapped her neighbor in the face. Captain Delgado also found a mugshot from an incident which occurred in November 2018 in which § 87(2)(b) was wearing copious glitter makeup. § 87(2)(b) officers showed Captain Delgado security footage of a woman matching § 87(2)(b)'s mugshot, including the glitter makeup, leaving the apartment building earlier in the evening on April 26, 2019, and returning around midnight.

Having seen the security footage, Captain Delgado was certain that § 87(2)(b) was inside of the apartment. § 87(2)(b) had confirmed with Sgt. Kalil that § 87(2)(b) called him in distress because § 87(2)(b) had left her and her brother unattended to allegedly go to a bar.

Captain Delgado had found documentation of intoxication in § 87(2)(b)'s criminal history. Additionally, officers had been knocking on doors and windows almost continuously for approximately three hours with no signs of movement or noise from inside. Although § 87(2)(b) had stated that § 87(2)(b) had a history of telling her children to be quiet when police or ACS knocked on the door, Captain Delgado thought that it was concerning, given his prior experience responding to situations involving distressed children, that no one had made any sounds within the apartment and that it was unlikely that anyone was asleep given the level and duration of the noise. Given all of these factors, Captain Delgado suspected that the children may have been injured or otherwise harmed and that § 87(2)(b) may have been passed out due to intoxication or otherwise incapacitated. As such, Captain Delgado decided that it was necessary to enter the apartment to conduct a wellness check on all of the occupants.

Captain Delgado contacted ESU, and, when they arrived, ESU officers picked the lock and entered the apartment. Captain Delgado immediately followed the ESU officers into the apartment, and he saw § 87(2)(b) lying in bed with § 87(2)(b) and § 87(2)(b) all of whom appeared to be uninjured.

The EVENT (**BR 09**) confirms that § 87(2)(b) initially contacted 911 at 12:27 a.m. reporting that his § 87(2)(b)-old daughter was home alone with her § 87(2)(b) old brother and that her mother had left her to go to a bar. Call backs to § 87(2)(b) were made at approximately 1:26 a.m., 1:27 a.m., and 2:22 a.m. At approximately 1:27 a.m., PO Goldrick and PO Piccione arrived at the location. At 3:49 a.m., Captain Delgado requested ESU for a wellness check. At 4:18 a.m., Captain Delgado gained entry to the apartment.

A Domestic Incident Report (**BR 10**), completed by PO Goldrick, was consistent with § 87(2)(b)'s 911 call and officer statements. § 87(2)(b) reported that § 87(2)(b) called him because § 87(2)(b) had left her and § 87(2)(b) home alone while she went to a bar and that they were scared. Security footage from the § 87(2)(b) captured § 87(2)(b) leaving the apartment on April 26, 2019, at approximately 9:15 p.m. and returning the next morning at approximately 1:30 a.m. Upon entry to the apartment, § 87(2)(b) appeared intoxicated with bloodshot eyes, slurred speech, and a strong odor of alcohol on her breath.

While § 87(2)(b) stated that she was only outside of her apartment from approximately 9:30 p.m. to 10 p.m., § 87(2)(b) called 911 at 12:27 a.m. stating that § 87(2)(b) was not at home, and security footage captured § 87(2)(b) leaving her apartment at 9:15 p.m. and not returning until 1:30 a.m. That video footage also confirmed that § 87(2)(b) had subsequently remained inside her apartment. Additionally, § 87(2)(b) reported that § 87(2)(b) was distressed and thought that § 87(2)(b) had gone to a bar. Captain Delgado, having searched § 87(2)(b)'s criminal history, found past incidents in which § 87(2)(b) was reported to have been intoxicated and a recent open complaint regarding a physical assault with a neighbor. PO Goldrick and PO Piccione knocked on the door and windows to § 87(2)(b)'s apartment from approximately 1:27 a.m. until entry was finally made at 4:18 a.m.

Captain Delgado decided to authorize entry into the apartment because security footage confirmed she was inside. § 87(2)(b) said that § 87(2)(b) was distressed. § 87(2)(b) stated that § 87(2)(b) had gone to a bar. § 87(2)(b) had a history of alcohol intoxication, and, despite repeated and prolonged attempts to contact the occupants of the apartment, no one made any sounds or observable movements. As such, Captain Delgado thought that § 87(2)(b) and § 87(2)(b) may have been injured and that § 87(2)(b) may have been incapacitated or otherwise unable to answer the door. Captain Delgado contacted ESU, and the ESU team picked the lock to the apartment.

According to People v. Rodriguez, 77 A.D.3d 280, 2010 (**BR 11**), officers are permitted to enter a premises without a warrant if they reasonably believe that there is an emergency and an immediate need for their assistance for the protection of life or property and a reasonable basis to associate the emergency with the area being entered.

§ 87(2)(g)

§ 87(2)(g)

Allegation (B) Force: Police Officer Kevin Goldrick used physical force against § 87(2)(b)

§ 87(2)(b) (BR 02 and BR 03) consistently stated that approximately four officers, including PO Goldrick, entered her apartment. PO Goldrick immediately approached § 87(2)(b) and, without saying anything, grabbed her right bicep with both of his hands and pulled her up into a standing position. PO Goldrick then pulled § 87(2)(b) by the bicep, told her that she needed to hurry up, led her to a police car outside, and took her to the 43rd Precinct. § 87(2)(b) and § 87(2)(b) stayed at the apartment with EMTs.

As noted above, the investigation was unable to obtain statements from § 87(2)(b) § 87(2)(b) or § 87(2)(b).

Captain Delgado (BR 07) stated that when he entered § 87(2)(b)'s apartment, he saw § 87(2)(b) and § 87(2)(b) all of whom appeared to be uninjured, lying in a bed in the center of the studio apartment. Captain Delgado asked § 87(2)(b) if anyone else was home, if she had been drinking, and if she had left the apartment at any point. § 87(2)(b) told Captain Delgado that no one else besides her children was at the apartment, that she had not been drinking, and that she had never left the apartment. Captain Delgado, who had seen security footage of § 87(2)(b) leaving the apartment, decided, because § 87(2)(b) had lied, that she was under arrest for child endangerment.

One of the officers from the 43rd Precinct asked § 87(2)(b) to stand up, which she did, and placed her into handcuffs. This officer then escorted § 87(2)(b) who walked willingly, to a marked police car outside by holding her upper arm.

Captain Delgado did not see any officer pull § 87(2)(b) into a standing position or pull § 87(2)(b) to the police vehicle. Captain Delgado then left the location while other officers stayed with § 87(2)(b) and § 87(2)(b) who were ultimately taken to Jacobi Hospital for a psychological evaluation.

PO Goldrick's statement (BR 06) § 87(2)(g) § 87(2)(b) When PO Goldrick entered the apartment, § 87(2)(b) was standing and was already in handcuffs. PO Goldrick retrieved § 87(2)(b)'s shoes and, once she put them on, escorted her to a police vehicle outside by holding onto her upper arm. § 87(2)(b) did not offer any resistance as they were walking. PO Goldrick denied ever pulling § 87(2)(b) into a standing position or pulling her towards the police vehicle, and he did not see any other officers so do.

§ 87(2)(b) was arrested for § 87(2)(b) (BR 01) and, subsequently at the 43rd Precinct stationhouse, for the open complaint (BR 08) for § 87(2)(b) against her neighbor (BR 12).

§ 87(2)(g)

§ 87(2)(g)

New York Penal Law 260.10 (BR 13) states that a person is guilty of endangering the welfare of a child when he or she knowingly acts in a manner likely to be injurious to the physical, mental, or moral welfare of a child less than seventeen years old.

According to Patrol Guide procedure 221-01 (**BR 14**), force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody.

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b)
- Captain Delgado has been a member of service for 22 years and has been named a subject in 21 CCRB complaints, one of which was substantiated.
 - 201904455 involved a substantiated allegation of a property seizure. The Board recommended command discipline.
 - § 87(2)(g)
- PO Goldrick has been a member of service for two years and has been named a subject in one CCRB complaint and one allegation, which was not substantiated. § 87(2)(g)

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- As of March 23, 2020, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards this to complaint (**BR 16**).
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (**BR 17**).

Squad No.: 10

Investigator: Maura R. Roche SI Maura R. Roche 3/24/2020
Signature Print Title & Name Date

Squad Leader: Eric Rigie IM Eric Rigie 4/01/2020
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date

CCRB Case # 201908532

